

Appl. No. 10/615,407

Attorney Docket No.: 54448-20001.00

**d.) Remarks**

In the Office Action, restriction is deemed required, under 35 U.S.C. § 121, to one of the following groups of claims:

**Group I:** Claims 1-32 and 39-41, drawn to a clasp, a device comprising a pair of clasps and a flexible cord or a securing device comprising a plurality of flexible cords wherein one end of each cord is connected to one or more other cords at a single position and wherein the other ends of the cords are connected to a clasp (class 24, subclass 300);

**Group II:** Claim 33, drawn to a method for using a clasp (class 24, subclass 1); and

**Group III:** Claims 34-38, drawn to a method of making a fastening device (class 72, subclass 362).

There are also alleged to be four distinct species. Those species are set forth in the Office Action as follows:

**Species I:** Comprising a device comprising a pair of clasps and a flexible cord connecting the pair of clasps wherein the clasp consists of the shape shown in Figure 1;

**Species II:** Comprising a device comprising pair of clasps and a flexible cord connecting the pair of clasps wherein the clasp consists of the shape shown in Figure 5;

**Species III:** Comprising a device comprising plurality of flexible cords having two ends, wherein one end of each cord is connected to one or more other cords at a single position and wherein the other ends of the cords are connected to a clasp (not shown) as described in claims 39-41 wherein the clasp consists of the shape shown in Figure 1; and

**Species IV:** Comprising a device comprising plurality of flexible cords having two ends, wherein one end of each cord is connected to one or more other cords at a single position

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and wherein the other ends of the cords are connected to a clasp (not shown) as described in claims 39-41 wherein the clasp consists of the shape shown in Figure 5.

**Remarks Regarding Restriction**

As recited under M.P.E.P. 803, restriction is appropriate only when the groups can be shown to be distinct and there would be a "serious burden" placed on the Examiner to examine more than one group of claims. No such serious burden has been established and applicant respectfully requests that this restriction be withdrawn.

The examiner's comments in the Office Action add nothing to support an increased searching burden, but merely recite statements from the MPEP. All three groups of claims relate to a fastening device. Accordingly, a search of one group would appear to necessarily include a search of the other groups.

Further, both Group I and Group II are in the very same class, and Group III is in another, but closely related class. Thus it would appear that, even using the PTO's own classification scheme, a serious searching burden does not exist.

Further still, merely reciting text from the MPEP does not meet the burden of establishing a *prima facie* case for restriction. No examples that the alleged subcombination has utility other than in the disclosed combination and, thus, a *prima facie* case for a restriction requirement has not been met.

With regard to the species restriction, applicant respectfully disagrees with the examiner and identifies claims 1-38 as generic to all species and "most clearly" claims 22-38 as generic. Further, 37 C.F.R. § 1.141 allows for the examination of a reasonable number of species in one application. Upon review of the listed species, applicant respectfully notes that a search of Species I is believed to necessarily include a search of all listed species. Reconsideration of the species requirement is respectfully requested.

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**Summary**

In sum, a restriction requirement is imposed "only" when it would be a serious burden on the examiner to examine all of the claims at once. No serious searching burden has been established. Further, the burden to impose the restriction has not been met and remains with the PTO. Withdrawal of the restriction and species restriction, and examination of all claim groups and species is respectfully requested.

**Attorney Docket Number**

Applicant respectfully notes that the Attorney Docket No. identified on the first page of the Office Action is incorrect. The correct Attorney Docket No. is 54448-20001.00. Appropriate correction is requested.

**Conclusion**

The application is in condition for examination and the prompt issuance of an Office Action is respectfully requested. If there are any fees due with the filing of this Response, including any fees for an extension of time, applicant respectfully requests that extension and also requests that any and all fees due be charged to Deposit Account No. 03-1952.

Respectfully submitted,  
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